

# **JOURNAL OF THE SENATE**

## **EIGHTY-EIGHTH SESSION**

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FOURTEENTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Tuesday, January 29, 2013

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Mercy Hobbs, followed by the Pledge of Allegiance led by Senate page Miranda Cain.

Roll Call: All members present.

### **APPROVAL OF THE JOURNAL**

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the thirteenth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Corey Brown, Chair

Which motion prevailed.

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1 Also MR. PRESIDENT:

2 The Committee on Judiciary respectfully reports that it has had under consideration SB 108  
3 which was deferred to the 41<sup>st</sup> Legislative Day.

4 Respectfully submitted,  
5 Craig Tieszen, Chair

6 Also MR. PRESIDENT:

7 The Committee on Commerce and Energy respectfully reports that it has had under  
8 consideration HB 1055 and returns the same with the recommendation that said bill do pass.

9 Also MR. PRESIDENT:

10 The Committee on Commerce and Energy respectfully reports that it has had under  
11 consideration SB 139 and returns the same with the recommendation that said bill be amended  
12 as follows:

13 139ja

14 On page 1 of the printed bill, delete lines 3 to 6, inclusive.

15 On page 1, line 7, delete everything after "Section 2." and insert "Any qualified health plan  
16 as defined by the Patient Protection and Affordable Care Act of 2010 sold in South Dakota  
17 through a public health care exchange, as".

18 On page 1, line 10, after "a" delete "health insurance" and insert "qualified health".

19 On page 1, line 10, after "through a" insert "public".

20 On page 2, line 1, before "exchange" insert "public".

21 On page 2, line 2, delete everything after "a" and insert "similar plan".

22 On page 2, line 9, delete "health benefit" and insert "qualified health".

23 On page 2, line 13, delete "product of" and insert "similar plan".

24 On page 2, line 14, delete "equal value".

25 On page 2, after line 14, insert:

26 "Section 3. That chapter 58-33A be amended by adding thereto a NEW SECTION to read  
27 as follows:

As provided for in Section 1333(b) (2) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), the State of South Dakota hereby opts out of nationwide plans and no nationwide plans may be sold, solicited, or negotiated in this state.

Section 4. That chapter 58-33A be amended by adding thereto a NEW SECTION to read as follows:

No multi-state plan as described in Section 1334 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010) may sell, solicit, negotiate, or otherwise transact health insurance in this state outside of any public exchange which may be operating in this state."

And that as so amended said bill do pass.

Also MR. PRESIDENT:

The Committee on Commerce and Energy respectfully reports that it has had under consideration SB 141 which was deferred to the 41<sup>st</sup> Legislative Day.

Respectfully submitted,  
Ried S. Holien, Chair

Also MR. PRESIDENT:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration SB 1 and 6 and returns the same with the recommendation that said bills do pass.

Also MR. PRESIDENT:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration SB 161 and returns the same with the recommendation that said bill be amended as follows:

161td

On page 3, after line 21 of the printed bill, insert:

"Section 4. That chapter 36-12 be amended by adding thereto a NEW SECTION to read as follows:

1 The Board of Veterinary Medical Examiners shall promulgate rules pursuant to chapter 1-26  
2 to set the application fee and establish continuing education, reciprocity, discipline standards,  
3 and liability insurance requirements for persons performing equine teeth floating services. The  
4 application fee may not exceed twenty-five dollars."

5 161te

6 On the previously adopted amendment (161td), after "discipline standards," insert  
7 "supervision standards,".

8 And that as so amended said bill do pass.

9 Respectfully submitted,  
10 Shantel Krebs, Chair

11 **MESSAGE FROM THE HOUSE**

12 MR. PRESIDENT:

13 I have the honor to transmit herewith HB 1014, 1017, 1082, 1097, 1108, 1115, 1116, 1118,  
14 1125, and 1127 which have passed the House and your favorable consideration is respectfully  
15 requested.

16 Respectfully,  
17 Arlene Kvislen, Chief Clerk

18 **MOTIONS AND RESOLUTIONS**

19 SR 1: A RESOLUTION, endorsing the induction of Tom C. Miller into the PRCA Rodeo  
20 Hall of Fame.

21 Sen. Rhoden moved that SR 1 as found on page 235 of the Senate Journal be adopted.

22 The question being on Sen. Rhoden's motion that SR 1 be adopted.

23 And the roll being called:

24 Yeas 35, Nays 0, Excused 0, Absent 0

25 Yeas:

26 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;  
27 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;  
28 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden;  
29 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

1 So the motion having received an affirmative vote of a majority of the members-elect, the  
2 President declared the motion carried and SR 1 was adopted.

3 HCR 1001: A CONCURRENT RESOLUTION, in opposition to certain actions by animal  
4 rights groups to undermine agricultural producers.

5 c1001rb

6 Sen. Van Gerpen moved that HCR 1001 be amended as follows:

7 On page 1, line 13, of the printed resolution, delete "farm animals" and insert "livestock".

8 On page 2, line 6, delete everything after "by" .

9 On page 2, line 7, delete everything before "groups" .

10 Which motion prevailed.

11 Sen. Van Gerpen moved that the Senate do concur in HCR 1001 as found on page 127 of  
12 the House Journal and as amended on page 262 of the Senate Journal.

13 The question being on Sen. Van Gerpen's motion that HCR 1001 be concurred in as  
14 amended.

15 And the roll being called:

16 Yeas 35, Nays 0, Excused 0, Absent 0

17 Yeas:

18 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;  
19 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;  
20 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
21 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

22 So the motion having received an affirmative vote of a majority of the members-elect, the  
23 President declared the motion carried and HCR 1001 was concurred in as amended.

## 24 CONSIDERATION OF REPORTS OF COMMITTEES

25 Sen. Olson moved that the reports of the Standing Committees on

26 Taxation on SB 156 as found on page 233 of the Senate Journal; also

27 Taxation on SB 157 as found on page 233 of the Senate Journal; also

1 Health and Human Services on SB 181 as found on page 234 of the Senate Journal be  
2 adopted.

3 Which motion prevailed.

4 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

5 HB 1014: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to  
6 purchase a structure for use by South Dakota School of Mines and Technology and to make an  
7 appropriation therefor.

8 Was read the first time and referred to the Committee on Appropriations.

9 HB 1017: FOR AN ACT ENTITLED, An Act to establish and revise certain provisions,  
10 bond amounts, fees, and penalties related to the regulation of grain warehouses and grain buyers  
11 and to declare an emergency.

12 Was read the first time and referred to the Committee on Agriculture and Natural  
13 Resources.

14 HB 1082: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the  
15 designation of official newspapers for municipalities.

16 Was read the first time and referred to the Committee on Local Government.

17 HB 1097: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to an  
18 employer's denial of workers' compensation claims.

19 Was read the first time and referred to the Committee on Commerce and Energy.

20 HB 1108: FOR AN ACT ENTITLED, An Act to expand the application of certain open  
21 meetings provisions to certain committees of public boards.

22 Was read the first time and referred to the Committee on State Affairs.

23 HB 1115: FOR AN ACT ENTITLED, An Act to clarify the deliberative process exception  
24 to certain open records provisions.

25 Was read the first time and referred to the Committee on State Affairs.

1 HB 1116: FOR AN ACT ENTITLED, An Act to revise the terms and expiration dates of  
2 appointees to certain boards and commissions.

3 Was read the first time and referred to the Committee on State Affairs.

4 HB 1118: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding special  
5 motor vehicle license plates for veterans with disabilities.

6 Was read the first time and referred to the Committee on Transportation.

7 HB 1125: FOR AN ACT ENTITLED, An Act to allow perpetual care and maintenance  
8 guarantee funds for cemeteries to be administered by cemetery corporations.

9 Was read the first time and referred to the Committee on Commerce and Energy.

10 HB 1127: FOR AN ACT ENTITLED, An Act to provide for certain use of income and  
11 principal from a perpetual care and maintenance guarantee fund for cemeteries.

12 Was read the first time and referred to the Committee on Commerce and Energy.

13 **SECOND READING OF CONSENT CALENDAR ITEMS**

14 SB 122: FOR AN ACT ENTITLED, An Act to revise the dates for holding township board  
15 meetings.

16 Was read the second time.

17 The question being "Shall SB 122 pass?"

18 And the roll being called:

19 Yeas 35, Nays 0, Excused 0, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;  
22 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;  
23 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
24 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

25 So the bill having received an affirmative vote of a majority of the members-elect, the  
26 President declared the bill passed and the title was agreed to.



SB 127: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the health and educational facilities authority.

Was read the second time.

The question being "Shall SB 127 pass?"

And the roll being called:

Yeas 35, Nays 0, Excused 0, Absent 0

Yeas:

Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

HB 1041: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the purchase price of rebuilt motor vehicles and to create a motor vehicle excise tax exemption for sales tax paid on parts used in rebuilt motor vehicles and vehicles manufactured by individuals.

Was read the second time.

The question being "Shall HB 1041 pass?"

And the roll being called:

Yeas 35, Nays 0, Excused 0, Absent 0

Yeas:

Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

HB 1053: FOR AN ACT ENTITLED, An Act to revise the lending limit for state chartered banks.

Was read the second time.

1 The question being "Shall HB 1053 pass?"

2 And the roll being called:

3 Yeas 35, Nays 0, Excused 0, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;  
6 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;  
7 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
8 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

9 So the bill having received an affirmative vote of a majority of the members-elect, the  
10 President declared the bill passed and the title was agreed to.

11 HB 1063: FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete  
12 provisions regarding the Bureau of Information and Telecommunications.

13 Was read the second time.

14 The question being "Shall HB 1063 pass?"

15 And the roll being called:

16 Yeas 35, Nays 0, Excused 0, Absent 0

17 Yeas:

18 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;  
19 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;  
20 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
21 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

22 So the bill having received an affirmative vote of a majority of the members-elect, the  
23 President declared the bill passed and the title was agreed to.

## 24 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

25 SB 16: FOR AN ACT ENTITLED, An Act to authorize the Brand Board to establish a  
26 service fee for certain local inspections of livestock and to declare an emergency.

27 Was read the second time.

28 Sen. Brown moved that SB 16 be laid on the table.

29 The question being on Sen. Brown's motion that SB 16 be laid on the table.

1 And the roll being called:

2 Yeas 35, Nays 0, Excused 0, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;  
5 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;  
6 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
7 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

8 So the motion having received an affirmative vote of a majority of the members-elect, the  
9 President declared the motion carried.

10 SB 21: FOR AN ACT ENTITLED, An Act to eliminate ownership inspection for horses  
11 and mules.

12 Was read the second time.

13 Sen. Brown moved that SB 21 be laid on the table.

14 The question being on Sen. Brown's motion that SB 21 be laid on the table.

15 And the roll being called:

16 Yeas 34, Nays 1, Excused 0, Absent 0

17 Yeas:

18 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff  
19 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup  
20 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;  
21 Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

22 Nays:

23 Bradford

24 So the motion having received an affirmative vote of a majority of the members-elect, the  
25 President declared the motion carried.

26 SB 84: FOR AN ACT ENTITLED, An Act to create the South Dakota Athletic  
27 Commission and to provide for the supervision of boxing, kickboxing, mixed martial arts  
28 competitions and sparring exhibitions in the state.

29 Was read the second time.

84xa

Sen. Brown moved that SB 84 be further amended as follows:

On page 2, line 15, of the Senate State Affairs Committee engrossed bill, delete "by" and insert "be".

Which motion prevailed.

The question being "Shall SB 84 pass as amended?"

And the roll being called:

Yeas 29, Nays 6, Excused 0, Absent 0

Yeas:

Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson (Russell); Otten (Ernie); Rampelberg; Rave; Rhoden; Soholt; Sutton; Tieszen; Welke; White

Nays:

Novstrup (Al); Omdahl; Peters; Tidemann; Van Gerpen; Vehle

So the bill having received an affirmative vote of a two-thirds majority of the members-elect, the President declared the bill passed and the title was agreed to.

## SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

HB 1021: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to child support.

Was read the second time.

The question being "Shall HB 1021 pass as amended?"

And the roll being called:

Yeas 35, Nays 0, Excused 0, Absent 0

Yeas:

Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

HB 1031: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding parole date calculation.

Was read the second time.

The question being "Shall HB 1031 pass?"

And the roll being called:

Yeas 34, Nays 1, Excused 0, Absent 0

Yeas:

Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup (Al); Olson (Russell); Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

Nays:

Omdahl

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

HB 1066: FOR AN ACT ENTITLED, An Act to continue the current rate of the gross receipts tax imposed on visitor-related businesses.

Was read the second time.

1066fc

Sen. Maher moved that HB 1066 be amended as follows:

On page 1, after line 13 of the printed bill, insert:

"Section 2. The provisions of section 1 of this Act are repealed on July 1, 2023."

Sen. Maher requested a roll call vote.

Which request was not supported.

Sen. Maher's motion to amend lost.

1 The question being "Shall HB 1066 pass?"

2 And the roll being called:

3 Yeas 33, Nays 2, Excused 0, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;  
6 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Monroe; Novstrup  
7 (Al); Olson (Russell); Omdahl; Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann;  
8 Tieszen; Van Gerpen; Vehle; Welke; White

9 Nays:

10 Maher; Otten (Ernie)

11 So the bill having received an affirmative vote of a two-thirds majority of the members-  
12 elect, the President declared the bill passed and the title was agreed to.

13 **COMMEMORATION**

14 SC 3 Introduced by: Senators Johnston, Begalka, Bradford, Ewing, Krebs, Rampelberg,  
15 Rave, Rhoden, Sutton, and Tidemann and Representatives Sly, Bartling, Cammack, Ecklund,  
16 Haggar (Don), Haggar (Jenna), Hansen, Hawks, Hawley, Johns, Killer, May, Munsterman,  
17 Peterson, Qualm, Romkema, Russell, Steele, Tyler, Verchio, Wink, and Wismer

18 A LEGISLATIVE COMMEMORATION, Commending and honoring the 2011-2012  
19 outstanding school administrators of South Dakota: Bob Sittig, Baltic, School  
20 Superintendent; Jeff Rieckman, Haakon, Middle School Principal; Marcia Jackson, Hot  
21 Springs, School Business Official; Tim Kusters, Lead-Deadwood, Elementary School  
22 Principal; Rocky Brinkman, Andes Central, Secondary School Principal; Melinda Jensen,  
23 Brookings, Assistant Secondary School Principal; Tanya Rasmussen, Harrisburg,  
24 Curriculum Director; Chrissy Peterson, Meade, Director of Special Education for being  
25 named outstanding administrators by their respective administrator parent groups.

26 WHEREAS, these administrators have been elected by their peers for outstanding service  
27 and dedication to education; and

28 WHEREAS, the combined years of service to the people of South Dakota and to the children  
29 and youth of South Dakota of these eight educational administrators is one hundred and eighty-  
30 eight years; and

31 WHEREAS, each of these educators has demonstrated a sincere interest in our children and  
32 superior skills in their chosen field of educational administration:

33 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-Eighth Legislature of the  
34 State of South Dakota, that Tim Kusters, Bob Sittig, Chrissy Peterson, Rocky Brinkman,

1 Melinda Jensen, Marcia Jackson, Tanya Rasmussen and Jeff Rieckman are named as official  
2 representatives of the School Administrators of South Dakota and shall continue their efforts  
3 to improve the educational opportunities for the children of the state.

4 Sen. Kirkeby moved that the Senate do now adjourn, which motion prevailed and at  
5 3:35 p.m. the Senate adjourned.

6 Jeannette Schipper, Secretary